

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Jerome W. Dewald,

Case No.: 2:19-cv-0764-JAD-VCF

Plaintiff

Order Dismissing Case

V.

Café Serendipity Holdings, Inc.,

Defendant

On November 18, 2019, I gave pro se plaintiff Jerome W. Dewald until December 18, to show cause why this case should not be dismissed for lack of subject-matter jurisdiction because the amount in controversy in this action appears to fall well below the jurisdictional threshold.¹ That deadline passed without any response by Dewald or request to extend the time to file one.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate, . . . dismissal” of a case.² A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.³ In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the

1 ECF No. 27.

² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 court must consider several factors: (1) the public's interest in expeditious resolution of
2 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants;
3 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less
4 drastic alternatives.⁴

5 I find that the first two factors weigh in favor of dismissal of this case. The risk-of-
6 prejudice factor also weighs in favor of dismissal because a presumption of injury arises from the
7 occurrence of unreasonable delay in filing a document ordered by the court or prosecuting an
8 action.⁵ A court's warning to a party that failing to obey the court's order or comply with a rule
9 will result in dismissal satisfies the consideration-of-alternatives requirement.⁶ Dewald was
10 expressly warned that dismissal would result if he failed to show cause by the December 18th
11 deadline.⁷ Although the fourth factor weighs against dismissal, it is greatly outweighed here by
12 those favoring dismissal.

13 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without
14 prejudice for lack of subject-matter jurisdiction. **The Clerk of Court is directed to CLOSE**
15 **THIS CASE.**

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17 U.S. District Judge Jennifer A. Dorsey
18 Dated: December 26, 2019
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24 ⁴ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*,
25 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 ⁵ *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁶ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 ⁷ ECF No. 27 at 5.